

STATE OF ARIZONA

# Joint Legislative Budget Committee

STATE  
SENATE

RUTH SOLOMON  
CHAIRMAN 2002  
MARSHA ARZBERGER  
TIMOTHY S. BEE  
KEN BENNETT  
JACK A. BROWN  
SCOTT BUNDGAARD  
EDWARD J. CIRILLO  
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HOUSE OF  
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CHRISTINE WEASON

## MEETING NOTICE

DATE: Thursday, February 28, 2002  
TIME: 11:00 a.m.  
PLACE: SENATE APPROPRIATIONS ROOM 109

## TENTATIVE AGENDA

- Call to Order
- [Approval of Minutes of January 9, 2002.](#)
- DIRECTOR'S REPORT (if necessary).
- EXECUTIVE SESSION - Arizona Department of Administration, Risk Management Services - Consideration of Proposed Settlements under Rule 14.
- 1. [DEPARTMENT OF HEALTH SERVICES - Review of Behavioral Health Capitation Rate Changes.](#)
- 2. [ATTORNEY GENERAL - Review of Uncollectible Debts.](#)
- 3. [COMMISSION FOR THE DEAF AND THE HARD OF HEARING - Update on Telecommunication Relay Services Contract.](#)

The Chairman reserves the right to set the order of the agenda.  
2/26/02

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## MINUTES OF THE MEETING

### JOINT LEGISLATIVE BUDGET COMMITTEE

January 9, 2002

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The Chairman called the meeting to order at 1:45 p.m., Wednesday, January 9, 2002, in House Hearing Room 4. The following were present:

Members:	Senator Solomon, Vice-Chairman Senator Arzberger Senator Bee Senator Bennett Senator Brown Senator Bundgaard Senator Cirillo Senator Rios	Representative Knaperek, Chairman Representative Allen Representative Burton Cahill Representative Gray Representative May Representative Pearce
Absent:		Representative Pickens Representative Weason
Staff:	Richard Stavneak, Director Bob Hull Brad Regens	Cheryl Kestner, Secretary Tom Mikesell Paul Shannon
Others:	Cynthia Odum Kathy Wieneke Frank Hinds Bob Rocha Tim Boncoskey Jim Buster	Office of the Attorney General Outside Counsel for the Attorney General Risk Management, ADOA Dept. of Environmental Quality Asst. Director, Management Services Div., ADOA Legislative Liaison, DEQ

### APPROVAL OF MINUTES

Senator Solomon moved that the minutes of October 25, 2001 be approved. The motion carried.

### EXECUTIVE SESSION

Senator Solomon moved that the Committee go into Executive Session. The motion carried.

At 1:46 p.m. the Joint Legislative Budget Committee went into Executive Session.

Senator Solomon moved that the Committee reconvene into open session. The motion carried.

At 2:05 p.m. the Committee reconvened into open session.

Senator Solomon moved that the Committee approve the recommended settlement proposals by the Attorney General's Office in the cases of:

1. Getzwiller v. State
2. Shumake v. State
3. Vetnick v. State
4. Virgen, et al. v. State

The motion carried.

#### **ARIZONA DEPARTMENT OF ADMINISTRATION - Review of Risk Management Deductible.**

Mr. Paul Shannon, JLBC Staff, stated that Risk Management has a \$10,000 deductible for various types of lawsuits that are occurred by state agencies. Mr. Shannon said the deductible has never been imposed on any state agency.

Senator Solomon moved that the Committee approve the Arizona Department of Administration's Risk Management deductible amount of \$10,000, which is the current amount. The motion carried.

#### **DEPARTMENT OF CORRECTIONS – Review of Private Prison Request for Proposal.**

Mr. Brad Regens, JLBC Staff, said the department's budget contains funding for 1,450 private beds. A contract for 600 of these private beds will expire at the end of September 2002. As a result, the department has issued a Request for Proposal (RFP) for the continued operation of these beds by a private prison vendor. Statute requires that whenever the department issues an RFP, they come before the JLBC for review.

Senator Solomon moved that the Committee favorably review the Arizona Department of Corrections private prison RFP. The motion carried.

#### **ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) – Review of Amendment #1 to Vehicle Emissions Inspection Contract.**

Mr. Tom Mikesell, JLBC Staff, stated that in December 2000 the Committee reviewed the contract to the program to cover operations beginning in January 2002 and continuing to December 2009. The new contract was awarded to Gordon-Darby Arizona Testing on December 15, 2000. The contract provides for a variety of tests depending on the vehicle's age and whether the vehicle is operated in Pima or Maricopa County. Under the new contract, the program will be funded entirely through test fees charged to motorists at the time of inspection. The amendment makes changes to the contract to conform to legislation passed in 2001, as well as procedural changes. In terms of legislative changes the contract amendment would expand the size of Area A. It would add alternative fuel vehicle testing provisions and it would eliminate the requirement to test constant 4-wheel drive vehicles. The elimination of emissions testing for constant 4-wheel drive vehicles does have an impact on fees. In terms of procedural changes the contract amendment would do 2 things. It would change the timing of the payments. The way the contract was originally worded the contractor would collect fees from motorists and then send the entire payment to DEQ. DEQ would then, on a monthly basis, pay the contractor their share. With the amendment DEQ would be sending the payment to the contractor on a weekly basis.

In addition, the amendment would shift the liability for non-sufficient funds checks from the contractor to the state. The JLBC Staff has reservations about that provision because under the original plan the contractor had responsibility for bad debt, and it was in their best interest to make sure the checks they were getting were good. With DEQ there is no accompanying assurance that the contractor would continue to do so.

This item was originally slated to be on the November 2001 JLBC meeting agenda. The November meeting was cancelled and DEQ has since signed the contract amendment with the contractor. They indicated that they have included a provision that ensures Gordon-Darby will follow appropriate debt-collection guidelines.

Representative Knaperek stated that she has concerns with the contractor checking the validity of checks. Mr. Mikesell said that when DEQ and the contractor signed the amendment they included the provision stating that the contractor will follow guidelines set by DEQ, which include checking the identity of the driver, making sure that the check is drawn on a local bank, and that the address is printed on the check.

In response to Representative Knaperek, Mr. Mikesell said that the contract went into effect January 2, 2002.

Senator Solomon asked what percentage of checks collected by the contractor are bad. Mr. Mikesell said he did not have a percentage, however, the dollar amount for bad checks in 2001 was approximately \$20,000.

Senator Solomon asked what action DEQ will take with regard to checks that are found to be bad.

Mr. Bob Rocha, Assistant Director for Administrative Services, DEQ, said they will follow the guidelines as outlined in the training manual for inspectors. If a check comes up bad they will then follow collection procedures that are in place for other programs: 1) they will contact ADOT to determine if they have a file that DEQ might be able proceed against this individual, 2) if necessary, will turn it over to the Attorney General's Office, and 3) if there are a lot of bad checks they would then exercise the right-of-offset with the Department of Revenue. Therefore, they expect very little activity if these procedures are followed.

Representative Knaperek asked Mr. Rocha why DEQ assumed the non-sufficient funds issue. Mr. Rocha said that the reason DEQ agreed to take on this issue is that it saves the state \$3.1 million in the reduction of fees over the life of the contract. Prior to this Gordon-Darby Arizona Testing has assumed that risk and responsibility. Mr. Rocha said that this was one of the elements that made up the savings. In addition, the state will also be getting additional services; getting a reduction in the risk assessment that was done and was included in the previous analysis for the dollars, if they were not appropriated.

Mr. Richard Stavneak, Director, JLBC Staff, said that this latest contract gives Gordon-Darby their money weekly, as opposed to monthly. That is part of what allows them to reduce the fees, because they are getting their money quicker than in the past.

Representative Knaperek commented that the greater part of the amendment appears to get Gordon-Darby their money more quickly. It is still unclear why DEQ would then assume responsibility for the bad checks. She also asked whether DEQ has responsibility for bad debts with other contractors. Mr. Rocha said that he did not believe DEQ had that in any other contracts.

Representative Pearce noted that the state has had a lot of problems with emissions tests as well as contracting issues. He asked why the state would enter into a new contract through the year 2009 instead of privatizing this. Mr. Rocha said that it was his understanding that it was a policy decision made at the time and that it was in the best interest to the state. Representative Pearce felt it was not in the best interest to the citizens of the state, who ultimately pay for this, and that the state should go for a true competitive process and privatization.

Representative Allen stated that there is more room for fraud when you go with a competitive process and privatization.

Senator Bee asked what obligation the state would have, since there is a 7-year contract, if the Legislature were to change any laws regarding emissions. Mr. Mikesell said there is a provision in the contract which would require the state to pay a penalty.

*Senator Solomon moved that the Committee give a favorable review to the contract amendment with the provision that ensures that the contractor takes reasonable steps when fees are collected to verify that checks are valid.*

Senator Rios commented that this vote seemed unnecessary since DEQ had already signed the contract. He stated that DEQ should have waited to come before the Committee prior to entering into a 7-year contract.

Representative Knaperek said that by statute DEQ had to have the contract in place by January 1. However, there was time prior to that when DEQ could have contacted members of the Committee to discuss this issue.

Mr. Rocha said DEQ in no way intended to bypass the Legislature or JLBC. The information was submitted in October in anticipation of the November meeting, which was cancelled.

Representative Knaperek said that DEQ should have called a JLBC Committee member, not Staff, so there could have been discussions on this item prior to entering into the contract.

Representative Pearce commented that the Committee should not give a favorable review on this item. He said they should not be bound by a contract that has already been signed.

Mr. Jim Buster, Legislative Liaison, DEQ, said the wording of the contract with Gordon-Darby was an issue that was debated in the last legislative session when the previous contract was coming to a close. The feeling was that with a shorter contract the state would be paying a higher price, as opposed to a longer contract at a higher rate. The other feeling is that technology is changing so fast that perhaps after 7 years the way of testing could be vastly different than it is now. Mr. Buster said that because of Special Session, holidays and the JLBC meeting being cancelled, this item did not come before the Committee prior to signing the contract.

In response to Representative Gray, Mr. Rocha said there is no provision for legislative changes that affect the contract. Although, any change to a contract is a material change and would cause Gordon-Darby or the state to renegotiate the contract.

Senator Solomon withdrew the motion to review this item.

Representative Gray noted that she would rather voice her disapproval of this item by voting no.

Chairman Knaperek left the meeting at 2:37 p.m. and Vice Chairman Solomon assumed the Chair.

#### **ARIZONA DEPARTMENT OF TRANSPORTATION (ADOT) – Report on Grand Canyon Airport Funding.**

Mr. Bob Hull, JLBC Staff, said that ADOT is requesting the release of \$161,500 for 3 months of funding in FY 2002 to operate the Grand Canyon Airport through March 31, 2002. JLBC Staff recommends that ADOT report back to the Committee by March 1, 2002 regarding the status of the lease, if ADOT has not leased the airport by then.

Representative Pearce moved that the Committee accept the recommendation of the JLBC Staff to release \$161,500 for 3 months of funding in FY 2002 to operate the Grand Canyon Airport through March 31, 2002. In addition, the Committee requested that ADOT report back to the Committee by March 1, 2002, regarding the status of the lease, if ADOT has not leased the airport by then. The motion carried.

#### **ARIZONA DEPARTMENT OF TRANSPORTATION - Review of Grand Canyon Airport Lease.**

Mr. Bob Hull, JLBC Staff, said this item is to review the lease of the Grand Canyon Airport. ADOT is required to get Committee review of the final copy of the lease before they sign it. They have now come forward with the final draft, which ADOT expects to be signed later in January. The Grand Canyon Airport Authority, Inc. would take operational control of the airport on April 1, 2002. Mr. Hull noted this process has been going on for a long time. Page 2 of the JLBC Staff memo shows the main provisions of the lease. There are 2 technical inconsistencies in the final lease to be corrected as follows:

- 1) Page 1, line 3, of the proposed lease states that the lease is executed as of January 1, 2002, when in fact the lease would actually be signed sometime later in January. ADOT verbally reports that they would cure this defect by replacing "January 1, 2002" with "this date" in the final lease before it is signed.
- 2) Page 8, lines 13 – 15, states that the 40-year term of the lease runs from the date first set forth (i.e., January 1, 2002) through December 31, 2041. ADOT verbally proposes to correct this defect by replacing this sentence with language, which would define the term of the lease as beginning on the date the lease is signed and ending 40 years in the future.

Representative Pearce moved that the Committee give a favorable review to ADOT's proposed lease of the Grand Canyon National Park Airport, with the provision that the final lease include ADOT's proposed verbal technical corrections before it is signed. The motion carried.

#### **ARIZONA DEPARTMENT OF ADMINISTRATION – Review of Expenditure Plan for the Replacement of the Human Resources/Payroll System under A.R.S. § 38-431.03.**

Mr. Paul Shannon, JLBC Staff, said this item was originally distributed as a confidential item for Executive Session, however, since it was distributed the contract was awarded conditionally upon review by the Committee.

This item is for review of the expenditure plan for the replacement of the Human Resources/Payroll System. The project would cost \$80.2 million over 12 years. The cost of implementation is approximately \$31 million. There are \$2.1 million in interest charges in the first year. Over the next 10 years, there are costs totaling \$22.6 million paid to external vendors, \$13 million in ongoing internal state costs, and approximately \$12.3 million in interest charges.

Funding for the project is a pro rata assessment on Personal Services. In FY 2002, the assessment is 0.95% of the Personal Services base. The assessment is scheduled to increase to 1.04% in FY 2003. There has not been a budgeted allocation for a FY 2003 appropriation. There is a projected shortfall starting in 2003. If the pro rata assessment is maintained to 0.95% in FY 2003, there is a shortfall in FY 2003. If the pro rata assessment is increased to 1.04%, there is a shortfall in FY 2006. Because the pro rata assessment is levied on Personal Services, it will be sensitive to changes to the Personal Services base in the FY 2003 budget. The cost of the project is similar to other projects of this magnitude but other projects of this magnitude are all custom projects in various jurisdictions that are not necessarily comparable to the state of Arizona.

The alternative to the project would be to put patches on the current system. Those patches would cost about \$1.5 million over this fiscal year and next fiscal year. JLBC Staff also recommends that should the Committee decide to approve the project, that lease-purchase funding not be used to finance current FTE positions. There will be current FTE positions in various agencies that will be part of the project. Those positions will be drawn from the agencies to work on the project. There may be positions to backfill the agencies that are temporary and funded through the lease-purchase. The JLBC Staff recommends that ADOA and Government Information Technology Agency (GITA) report to JLBC by February 15, 2002 concerning any budget reductions that would result from implementation of the project.

Senator Bundgaard noted that the system implementation is supposed to cost \$33 million, and in the 5<sup>th</sup> year that includes an upgrade of \$3.6 million. He asked how they know that now and why is it built into this projection. Mr. Shannon said that there are planned upgrades to the software as provided by the vendor.

Representative Gray asked why the travel expenses (\$1.7 million) are so high, and why the department did not hire experts in this area as opposed to paying travel expenses to bring in experts to work on the system.

Mr. Shannon said those consultants are employed by the vendor and represent the vendor's expertise.

Mr. Tim Boncoskey, Assistant Director, Management Services Division, ADOA, responded that as far as the contract award, the consultants will be staying at hotels the same as if they were state employees. Fourteen of the companies' top 17 people are being assigned to this project and that was taken into account. IBM does not have locally employed consultants with this expertise.

Senator Arzberger asked if this could be done for less. She noted that computers have a real lure for people to do more than is actually needed. She said she understands why upgrades are needed and that software becomes dated very quickly. Would it be better at this time to do what is absolutely necessary and save some of the consulting money for a later time.

Senator Solomon asked if the extra functions that will be installed add cost. Mr. Shannon said that they will add cost. There are very few lower cost alternatives. The current system could be patched at a much cheaper cost but eventually the current system will have to be replaced. It is becoming obsolete and some think it is obsolete at this date.

Senator Solomon asked if an analysis has been done on what certain functions would be saved if we go to an electronic function rather than a hard paper copy. Mr. Shannon said the department did prepare an analysis on that and they have an extremely large dollar amount for the savings. The savings total over \$100 million, but they are soft savings. Removing money from agency budgets could prove difficult.

Mr. Shannon explained some of the benefits. Currently, computer programmers are required to reprogram the system every time there is a tax law change or change to the system. The new system provides web-based access for the employee, who can view his deductions and benefits elections without having to interact with human resources personnel. They can also do their own data entry. It provides a higher level of information and reporting capability than is available now. Currently, if you want a report from the current system you have to ask a programmer to sit down and write the program for the report.

Discussion continued on this issue.

Mr. Stavneak said that if the Committee approves this item, DOA and GITA will report back to the Committee by February 15, 2002 on whether or not this will translate into a savings.

*Representative Pearce moved that the Committee give a favorable review to the Arizona Department of Administration's expenditure plan for the replacement of the Human Resources/Payroll System, and that funding be discussed during the FY 2003 budget process. DOA and GITA are to report back quarterly to provide information to JLBC on the project. DOA and GITA will report back to the Committee by February 15, 2002 on agency budget reductions from the implementation of the new system. In addition, lease-purchase financing is to exclude the cost of any on-going FTE positions. The motion carried.*

#### **REPORT ON RECENT AGENCY SUBMISSIONS**

Mr. Stavneak said that these are the recent reports received in the last month and no Committee action was required.

- A. Arizona Department of Administration – Report on the Use of Alternative Fuels and Clean Burning Fuels in the State Motor Vehicle Fleet.**
- B. Arizona Corporation Commission/Arizona Department of Transportation – Report on Railroad Safety Activities.**
- C. Department of Economic Security - Bimonthly Report on Children Services Program.**
- D. Department of Economic Security - Bimonthly Report on Arizona Works.**
- E. Department of Emergency and Military Affairs – Report on Declared Emergencies.**
- F. Department of Health Services – Report on Health Crisis Fund Expenditures.**
- G. State Mine Inspector – Report on Abandoned Mines Safety Fund Expenditures and Contributions.**
- H. State Mine Inspector – Report on Mined Land Reclamation Consultant Services.**
- I. Commission for Post secondary Education – Report on Fund Deposits and Expenditures.**
- J. Supreme Court – Report on Adult Probation Services Fund and the Juvenile Probation Fund.**
- K. Office of Tourism – Report on Tourism Revenues and Expenditure Plan.**

Without objection, the meeting adjourned at 3:10 p.m.

Respectfully submitted:

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Cheryl Kestner, Secretary

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Richard Stavneak, Director

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Representative Laura Knaperek, Chairman

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DATE: February 14, 2002

TO: Senator Ruth Solomon, Chairman  
Members, Joint Legislative Budget Committee

THRU: Richard Stavneak, Director

FROM: Gina Guarascio, Senior Fiscal Analyst

SUBJECT: DEPARTMENT OF HEALTH SERVICES - REVIEW OF BEHAVIORAL HEALTH  
CAPITATION RATE CHANGES

**Request**

Pursuant to a footnote in the General Appropriation Act, the Department of Health Services (DHS) must present an expenditure plan to the Committee for its review prior to implementing any change in capitation rates for Title XIX behavioral health programs. DHS is requesting review of a rate change for the behavioral health capitation rate for children and adults with developmental disabilities (DD). DHS provides behavioral health services to the Title XIX DD population through an agreement with the Department of Economic Security (DES).

**Recommendation**

The JLBC Staff is deferring a recommendation, as the proposed rate change represents a policy consideration for the Committee. JLBC Staff projects the proposed rate change will increase General Fund expenditures by \$1,237,300 when compared to the current rate for the DD population. The proposed rate was included in the calculation of an estimated Title XIX supplemental for DHS, and is included in budget bills currently pending before both the House and the Senate that revise FY 2002 appropriations. Costs based on the new capitation rate may be higher or lower, depending upon the actual number of people that are eligible for Title XIX behavioral health DD services.

**Analysis**

DHS has received a recommendation from the Arizona Health Care Cost Containment System (AHCCCS) to change the behavioral health capitation rate for the developmentally disabled population retroactive to October 1, 2001, and has submitted a plan showing the estimated cost of the rate change for the Committee's review.

(Continued)



Currently, the per member per month capitation rate for the behavioral health DD population is \$27.10; this proposal would increase the rate to \$57.46, which represents an increase of 112%. The following table summarizes the expected General Fund (GF) impact of the proposed rate change in FY 2002 by behavioral health program.

<b><u>JLBC Projected Impact</u></b>				
<b>Program</b>	<b>FY 2002 GF Supplemental, with Current DD Rate</b>	<b>FY 2002 GF Supplemental, Adjusted for Increase</b>	<b>Anticipated Impact of Change in DD Rate in FY 2002</b>	<b>DHS Projected Impact</b>
CBH	531,900	1,224,800	692,900	
SMI	1,562,300	2,106,700	544,400	
GMH/SA	367,900	367,900	-	
	<b>\$2,462,100</b>	<b>\$3,699,400</b>	<b>\$1,237,300</b>	<b>\$1,268,900</b>

The proposed rate was included in the calculation of an estimated Title XIX supplemental for DHS, and is included in budget bills currently pending before both the House and the Senate that revise FY 2002 appropriations. Costs based on the new capitation rate may be higher or lower, depending upon the actual number of people that are eligible for Title XIX behavioral health DD services.

Actuaries based adjustments in the capitation rate on a number of factors. Actuaries reviewed the cost of actual encounters of the DD population. This review represents the largest portion of the increase. Actuaries also added an inflation factor of 10%, comparable to the inflation increase in the behavioral health component of the Title XIX Long Term Care Program. Finally, the actuaries added an 8.3% adjustment for administration. In general, the Legislature does not fund administrative adjustments that are included in capitation rates, since administrative costs are not funded as part of the Title XIX Special Line Items, but as a separate component of the budget. A reduction adjusting for the administrative component has been included in the estimate provided above.

As mentioned above, a footnote in the General Appropriation Act requires DHS to submit an expenditure plan to the Committee prior to implementing any change in capitation rates in the Title XIX behavioral health programs. In the past, capitation rate changes were implemented without notification of the Legislature. The footnote was added so that legislators would be made aware of these changes and the potential budget impacts before the new rates are implemented.

RS/GG:jb

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DATE: February 14, 2002

TO: Senator Ruth Solomon, Chairman  
Members, Joint Legislative Budget Committee

THRU: Richard Stavneak, Director

FROM: Kim Hohman, Fiscal Analyst

SUBJECT: OFFICE OF THE ATTORNEY GENERAL – REVIEW OF UNCOLLECTIBLE  
DEBTS

**Request**

Pursuant to A.R.S. § 35-150(E), the Attorney General requests that the Joint Legislative Budget Committee review its FY 2001 listing of \$4.6 million in uncollectible debts referred to the Attorney General by state agencies for collection.

**Recommendation**

The JLBC Staff recommends that the Committee give a favorable review of the report. The report meets the requirements of A.R.S. § 35-150(E).

**Analysis**

The Attorney General's Collection Enforcement Unit functions as a collection service for past due debts owed to state agencies, boards and commissions. The unit returns 65% of collected monies to the client agencies and retains the remaining 35% for unit operational costs. While the Collection Enforcement unit is able to collect monies from many individuals and businesses that owe monies to the state, for a variety of reasons, some debts are uncollectible. In the past, there has been no procedure to "write-off" uncollectible debt, so they continued to be carried in the state's accounting system. Laws 1999, Chapter 300 created a procedure for the State Comptroller to remove uncollectible debts from the state accounting system, after receiving annual notice of uncollectible debt from the Attorney General and review by the Joint Legislative Budget Committee.

(Continued)

The Attorney General's Office reviewed the cases assigned to the Collection Enforcement Unit. Based on this review, the Attorney General advises that \$4,616,089 owed to the state is uncollectible. Included as uncollectible are those monies that will not be recovered due to debtor bankruptcy, settlement, insufficient resources of the debtor, or the inability to locate the debtor. Of this amount, approximately 87% are debts that were owed to four agencies, the Arizona Department of Revenue, the Registrar of Contractors, the Department of Building and Fire Safety, and the Industrial Commission. The remaining 13% are debts owed to 15 other agencies.

<u>Uncollectible Debt Recommended for Write-Off by Client Agency</u>		
	<u>Amount Recommended for Write-Off</u>	<u>Percentage</u>
Arizona Department of Revenue	\$1,593,633	34%
Registrar of Contractors	1,535,595	33%
Department of Building and Fire Safety	487,550	11%
Industrial Commission	420,124	9%
All Others	<u>579,187</u>	<u>13%</u>
Total	\$4,616,089	100%

In comparison, the state removed \$7.6 million in uncollectible debt from the accounting system last year. The current report makes improvements to last year's report by including an explanation for each uncollectible debt, the date the collection work began, the date the debt was determine uncollectible, and the dollar amount of each debt.

RS:KH:ck

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CHRISTINE WEASON

DATE: February 14, 2002

TO: Senator Ruth Solomon, Chairman  
Members, Joint Legislative Budget Committee

THRU: Richard Stavneak, Director

FROM: Beth Kohler, Fiscal Analyst

SUBJECT: ARIZONA COMMISSION FOR THE DEAF AND THE HARD OF HEARING –  
UPDATE ON TELECOMMUNICATION RELAY SERVICES CONTRACT

**Request**

The Commission for the Deaf and the Hard of Hearing has requested that the Committee revisit the issue of the state's Telecommunication Relay Services (TRS) contract, which was discussed at its October 25, 2001 meeting. Pursuant to a footnote in the General Appropriation Act, the Arizona Commission for the Deaf and the Hard of Hearing is required to present any proposed contract for telecommunication relay services (TRS) to the Committee for review. The contract was awarded to MCI WORLDCOM Global Relay. At its October 25, 2001 meeting, the Committee gave the MCI TRS contract an unfavorable review and expressed interest in examining issues related to TRS such as the potential for multivendor contracts. This memo provides an update on the status of the TRS contract and addresses the issue of multivendor contracts.

**Analysis**

A footnote in the General Appropriation Act stipulates that "before the execution of any contract for telecommunication relay services, the Commission for the Deaf and the Hard of Hearing shall present the proposed contract to the Joint Legislative Budget Committee for review." The State Procurement Office (SPO) awarded the contract to MCI WORLDCOM Global Relay, contingent upon Committee review. At its October 25, 2001 meeting, members of the public expressed concerns about MCI's ability to provide adequate TRS services. Other members of the public expressed confidence that MCI would provide quality TRS services. At the meeting, the Committee gave the MCI TRS contract an unfavorable review, stating an interest in exploring the issues raised by the members of the public as well as the potential for multivendor contracts.

Since the meeting, another TRS vendor filed a protest against the contract award. This protest was denied by SPO and the vendor appealed the denial to the Director of the Arizona Department of Administration (ADOA). The Director of ADOA has dismissed the appeal on the grounds that the vendor did not meet

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the contract specifications requiring a 60 words per minute (wpm) operator typing speed (which is mandated by the Federal Communications commission). ADOA concluded that A.R.S. § 41-2534(C), which governs the procurement process, does not give SPO the authority to waive material specification requirements in a contract solicitation. Further, ADOA expressed concern that failure to comply with the 60-wpm requirement could cause the state to lose its TRS certification. Therefore, ADOA proceeded with the implementation of the MCI contract. The MCI contract began on February 1, 2002.

The other vendor also appealed to the Superior Court of Arizona, requesting a stay of implementation of the contract on the grounds that ADOA procedure was flawed and biased, that the vendor was unaware of certain contract requirements, that the vendor will suffer irreparable harm as a result of losing the contract and that the vendor's bid was lower than the MCI bid. On January 30, 2002, the Superior Court denied the stay. The other vendor has indicated it will continue to appeal the decision to award the contract to MCI.

At the October 25, 2001 meeting, the Committee raised questions regarding whether a multivendor contract would be feasible in Arizona, and how the new Federal Communications Commission regulations regarding 711 services could impact a multivendor contract. The 711 system allows callers to access the relay services by dialing 7-1-1. Previously, the services were accessed through a 1-800-number.

It appears that the 711 system would not be an impediment to the implementation of a multivendor system. In a multivendor contract, a primary vendor would be selected to receive calls through the 711 number. There would also be additional secondary vendors who would each have a 1-800-number through which their relay operators could be accessed. The Commission has expressed concerns, however, that although individuals with a strong preference for the secondary vendor may use the alternate 1-800-number, most people would likely use the 711 number because it is easier to remember.

The Commission has indicated it does not recommend a multivendor contract at this time. The Commission reports that most states do not have sufficient call volume to sustain a multi-vendor contract and that, of the states with high call volume, most have expressed concerns about the administrative complexity of a multi-vendor contract and the potential increase in costs this could generate. Currently, California is the only state with a multivendor contract. The Commission feels that it does not have enough information about the California contract to develop an accurate analysis of whether a multivendor contract would produce TRS contract savings by introducing competition into the relay services market. One concern is whether Arizona could provide enough call volume to multiple vendors to allow the vendors to stay in business at a low price. In order to develop an estimate of any costs or savings associated with a multivendor contract, we would need to determine whether the state has sufficient call volume to allow multiple vendors to stay in business using the separate 1-800-numbers. The best method of making this determination may be to issue an RFP for a multivendor contract.

In order to issue a new RFP for a multivendor contract, the Commission would need to draft a new scope of work, which the Commission estimates would take approximately 6 to 8 months. Further, SPO estimates that the new contract process would take 60 to 90 days. In addition, SPO reports that because the contract has been signed and implemented, the state could be liable for the costs associated with breaking the contract, which may include the costs incurred by MCI to set up a call processing center for TRS services, employee training costs, and any other costs associated with the implementation of the contract for which MCI has not yet been reimbursed.

The Commission has also responded to the issues raised by members of the public at the October 25, 2001 meeting. This response, along with a response from the SPO, is attached.

RS/BK:ck  
Attachment